

Express Mail No. EV 447 217 085 US
Attorney Docket No. 2043/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Inventors:	Kenneth R. Wilsher et al.	Confirmation No.: 2164
Appln. No.:	09/746,618	Group Art Unit: 2877
Filing Date:	December 21, 2000	Examiner: Richard A. Rosenberger
For:	OPTICAL COUPLING FOR TESTING INTEGRATED CIRCUITS	

**Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

REQUEST FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)

Sir:

Pursuant to 37 C.F.R. § 1.705(b), Applicant submits this request for reconsideration of patent term adjustment. The March 15, 2005, Determination of Patent Term Adjustment indicates a projected patent term adjustment of 273 days (Exhibit A). To discern the basis for the Notice of Allowance patent term adjustment, we have analyzed the Patent Term Adjustment History section of the Patent Application Retrieval Report ("PAIR report") printed from U.S. Patent and Trademark Office ("PTO") on June 13, 2005 (Exhibit B). We have compared the PTO patent term adjustment determination against the patent term adjustment calculated using a commercially available patent term adjustment analysis program ("Patent Term Online"). The Patent Term Online report indicates a patent term adjustment of 471 days (Exhibit C). Given the discrepancy between the patent term adjustment of Patent Term Online and that indicated in the Notice of Allowance, a reconsideration of the patent term adjustment is respectfully requested.

Statement of Facts

This Application for Patent Term Adjustment is made with the mailing of the payment of the issue and publication fees and is accompanied by this statement of facts pursuant to 37

C.F.R. § 1.705(b)(2)(i-iv); 200000000 2005\03\20 06/20/2005 FFANAI3 00000001 09746618

~~06/17/2005 FEANAIAB 00000095.09746618~~

03 1149

01 FC:1455

200.00 OP

~~03-FG-1463~~

~~200.00-00~~

(i) We believe the correct patent term adjustment is 471 days as reflected in the Patent Term Online report. Pursuant to 37 C.F.R. § 1.702(b), the PTO must issue a patent within 3 years of filing. The present application is scheduled to issue approximately September 20, 2005. As set forth in the Determination of Patent Term Adjustment, the projected issue date is based on payment of the issue fee "on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice." The present application was filed on December 21, 2000. Thus, the patent will issue approximately 639 days over three years. As set forth below, there are 168 days of debits; thus, the patent term adjustment should be approximately 471 days (639 days - 168 days = 471 days). The Patent Term Online calculation is based upon the "actual delay" requirements as set forth in 37 C.F.R. § 1.704(f).

(ii) Pursuant to 37 C.F.R. § 1.703(a) – (e), with reference to the PTO Pair Report and/or Patent Term Online exhibits, the following is a summary of PTO and Applicant delays in meeting certain timing requirements in the prosecution of this application:

(a) there was a 441 day delay by the U.S. Patent and Trademark Office in issuing the first Office action;

(b) there was a total of 168 days reflecting Applicant's delay if filing various responsive documents during prosecution of the present application; and

(c) there is a projected 639 days delay in meeting the requirement that the PTO issue a patent within three years of its filing date. As set forth above in section (i), it appears that the PTO patent term adjustment calculation has erroneously failed to consider the issuance of the patent in a time period of approximately 639 days over the three year requirement set forth in 37 C.F.R. § 1.702(b).

(iii) This application is not the subject of a terminal disclaimer.

(iv) There are no known circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

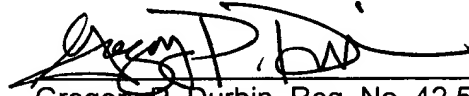
Conclusion

Applicant believes the proper patent term adjustment is approximately 471 days, not 273 days as calculated by the PTO. Thus, applicant respectfully requests reconsideration of the patent term adjustment as set forth above. Pursuant to 37 C.F.R. § 1.18(e), a check in the sum of \$200.00 is enclosed herewith. The Commissioner is hereby authorized to charge any additional fees with regard to this Application for Patent Term Adjustment to Deposit Account No. 04-1415.

Please contact the undersigned at 303-629-3427 if there are any questions concerning this petition.

Signed at Denver, Colorado, this 15th day of June 2005.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gregory P. Durbin', is written over a horizontal line.

Gregory P. Durbin, Reg. No. 42,503
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USPTO Customer No. 20686

Enclosures

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

JUN 15 2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,618	12/24/2000	Kenneth R. Wilsher	M-8666 US	2164

7590

03/15/2005

Greg Dublin
Dorsey & Whitney, LLP
370 17th Street, Suite 4700
Denver, CO 80202

EXAMINER

ROSENBERGER, RICHARD A

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 03/15/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 273 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 273 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

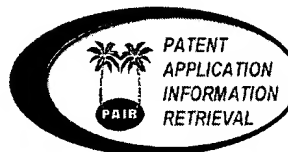
EXHIBIT B



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PATENT APPLICATION INFORMATION RETRIEVAL



Printer Friendly Version

Patent Term Adjustment (PTA) for application number: 09/746,618

			Days
Filing or 371(c) Date:	12-21-2000	USPTO Delay (PTO):	441
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	168
Post-Issue Petitions (days):	+0	Total PTA:	273
USPTO Adjustment (days):	+0	Explanation of Calculations	

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Continuity Data

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Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
03-15-2005	Mail Notice of Allowance		
03-08-2005	Issue Revision Completed		
03-07-2005	Notice of Allowance Data Verification Completed		
03-04-2005	IFW TSS Processing by Tech Center Complete		
03-03-2005	Notice of Allowability		
03-03-2005	Date Forwarded to Examiner		
01-07-2005	Amendment after Final Rejection		87
01-07-2005	Request for Extension of Time - Granted		↑
01-07-2005	Workflow incoming amendment IFW		↑
12-14-2004	Mail Advisory Action (PTOL - 303)		↑
12-10-2004	Advisory Action (PTOL-303)		↑
12-08-2004	Date Forwarded to Examiner		↑
11-10-2004	Amendment after Final Rejection		↑
11-10-2004	Request for Extension of Time - Granted		↑
11-10-2004	Workflow incoming amendment IFW		↑
07-12-2004	Mail Final Rejection (PTOL - 326)		↑
07-12-2004	Final Rejection		
05-06-2004	Date Forwarded to Examiner		
04-20-2004	Response after Non-Final Action		20
04-20-2004	Request for Extension of Time - Granted		↑
04-20-2004	Reference capture on IDS		↑
04-20-2004	Information Disclosure Statement (IDS) Filed		↑
04-20-2004	Workflow incoming amendment IFW		↑

12-31-2003	Mail Non-Final Rejection		↑
12-19-2003	Non-Final Rejection		
10-24-2003	Date Forwarded to Examiner		
10-08-2003	Response after Non-Final Action		61
10-08-2003	Request for Extension of Time - Granted		↑
05-08-2003	Mail Non-Final Rejection	441	↑
05-05-2003	Non-Final Rejection	↑	
02-19-2003	Information Disclosure Statement (IDS) Filed	↑	
12-31-2002	Miscellaneous Incoming Letter	↑	
02-07-2003	Record Petition Decision of Granted Related to Attorney	↑	
12-23-2002	Petition Entered	↑	
01-30-2003	Correspondence Address Change	↑	
01-30-2003	Change in Power of Attorney (May Include Associate POA)	↑	
04-29-2002	Case Docketed to Examiner in GAU	↑	
04-10-2002	Transfer Inquiry to GAU	↑	
02-05-2002	Case Docketed to Examiner in GAU	↑	
01-15-2002	Case Docketed to Examiner in GAU	↑	
01-15-2002	Case Docketed to Examiner in GAU	↑	
01-11-2002	Case Docketed to Examiner in GAU	↑	
08-16-2001	Information Disclosure Statement (IDS) Filed	↑	
05-22-2001	New or Additional Drawing Filed	↑	
04-09-2001	Case Docketed to Examiner in GAU	↑	
12-21-2000	Information Disclosure Statement (IDS) Filed	↑	
03-14-2001	Application Dispatched from OIPE	↑	
01-31-2001	Correspondence Address Change	↑	
01-12-2001	IFW Scan & PACR Auto Security Review	↑	
12-21-2000	Initial Exam Team nn	↑	

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EXHIBIT C

Analysis Summary Report

APPLICATION INFORMATION			
Docket Number:	2043/US Credence	Analysis Generated:	06/13/2005 07:52:09 PM ET
Application Number:	09/746,618	User Name:	Howell, Jo
Filing Date:	12/21/2000	Firm/Company Name:	Dorsey & Whitney
Title/Inventors:	OPTICAL COUPLING FOR TESTING INTEGRATED CIRCUITS; Kenneth Wilsner , Palo Alto, CA	Attorney/Agent Comments:	

AIPA TERM ANALYSIS SUMMARY	
Analysis Mode:	Preliminary (1)
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	12 / 21 / 2000
Filing Date (US National Application):	12 / 21 / 2000
Net Adjustment Credits:	639 Days
Net Adjustment Debits:	168 Days
Net Patent Term Adjustment:	471 Days
AIPA Patent Term End Date:	04 / 06 / 2022 (2)
<p>(1) Based on the data available for this application, complete analysis could not yet be performed. Certain required rules(s) are missing from this application. For a list of event and rule issues, click the Term Analysis tab.</p> <p>(2) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 12/21/2020.</p>	

RULE APPLICATION SUMMARY (3)						
Event	Rule Invoked	Related Event	Excluded Days	Debit Days	Credit Days	
A 12/21/2000 Filing Date under 35 USC 111(a) (US National Application)	14-Month PTO First Action PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	<i>First PTO Action:</i> 05/08/2003 Non-final Action	0	0	441	
B 12/21/2000 Filing Date under 35 USC 111(a) (US National Application)	3-Year PTO Issue of Patent PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b). You have elected to analyze this rule under the PTO Exclusion Interpretation, but this election did not affect the number of credit days under this rule.	<i>Issue Date:</i> 09/20/2005 Issue Date	0	0	639	
C 05/08/2003 Non-final Action	3-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	<i>Applicant Response:</i> 10/08/2003 Reply after Non-final Action under 37 CFR 1.111	0	61	0	

<p>D</p> <p>10/08/2003 Reply after Non-final Action under 37 CFR 1.111</p>	<p><u>4-Month PTO Response to Applicant Reply</u></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</p>	<p><i>PTO Response:</i> 12/31/2003 Non-final Action</p>	<p>0</p>	<p>0</p>	<p>0</p>
<p>E</p> <p>12/31/2003 Non-final Action</p>	<p><u>3-Month Applicant Response to Notice or Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 04/20/2004 Reply after Non-final Action under 37 CFR 1.111</p>	<p>0</p>	<p>20</p>	<p>0</p>
<p>F</p> <p>04/20/2004 Reply after Non-final Action under 37 CFR 1.111</p>	<p><u>4-Month PTO Response to Applicant Reply</u></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</p>	<p><i>PTO Response:</i> 07/12/2004 Final Rejection</p>	<p>0</p>	<p>0</p>	<p>0</p>
<p>G</p> <p>07/12/2004 Final Rejection</p>	<p><u>3-Month Applicant Response to Notice or Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 01/07/2005 Amendment after Final</p>	<p>0</p>	<p>87</p>	<p>0</p>

<p>H</p> <p>03/15/2005 Notice of Allowance under 35 USC 151</p>	<p>3-Month Applicant Response to Notice or Action</p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period; all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i></p> <p>06/15/2005 Issue Fee Payment under 35 USC 151</p>	<p>0</p> <p>0</p> <p>0</p>	
<p>I</p> <p>06/15/2005 Issue Fee Payment under 35 USC 151</p>	<p>4-Month PTO Issue of Patent</p> <p>PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).</p>	<p><i>Issue Date:</i></p> <p>09/20/2005 Issue Date</p>	<p>0</p> <p>0</p> <p>0</p>	
<p>Total Exclusion, Debit, and Credit Days</p>			<p>0</p> <p>168</p>	<p>1080</p>
<p>Overlap Days</p>			<p>0</p> <p>0</p>	<p>0</p>
<p>Net Exclusion, Debit, and Credit Days</p>			<p>0</p> <p>168</p>	<p>639†</p>
<p>Net Patent Term Adjustment Days</p>	<p>The term of this patent ends on 04/06/2022 (4)</p>			<p>471</p>
<p>(3) Based on the data available for this application, complete analysis could not yet be performed. Certain required rule(s) are missing from this application. For a list of event and rule issues, click the Term Analysis tab. (4) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 12/21/2020. †Net credits were limited by 37 CFR § 1.703(f) "Actual Delay" limitation. See calculation below.</p>				

37 CFR § 1.703(f) "ACTUAL DELAY" CALCULATION			
	Credit Days During Exclusionary Periods	Credit Days During Non-Exclusionary Periods	
		Three-Year Issue Guarantee	All Other Rules

Net Credit Days		0	639	441
Maximum Credit Days under 37 CFR § 1.703(f) "Actual Delay" Limitation			639	